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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,675	02/08/2002	George Koregelos	HWP/0067	5161
498	7590	03/02/2004	EXAMINER	
JAMES R. CYPHER 405 14TH STREET SUITE 1607 OAKLAND, CA 94612			SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/072,675

Applicant(s)

KOREGELOS, GEORGE

Examiner

Mark Spisich

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 12-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,27 and 29-38 is/are rejected.
- 7) ☒ Claim(s) 25,26 and 28 is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/02,6,9,11/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1,3-11 and 25-38, drawn to a cleaning device, classified in class 15, subclass 104.2.
 - II. Claims 2 and 12-24, drawn to a cleaning device forming method, classified in class 300, subclass 21.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process of claim 2 can be used to produce a device which does not have a base member formed in a helix-like configuration (required by claim 1) and the device of claim 1 need not be made with the specific process steps required by claim 12.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with James R Cypher on 23 February 2004 a provisional election was made with the right to traverse to prosecute the invention of group I, claims 1,3-11 and 25-38. Affirmation of this election must be made by applicant

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in replying to this Office action. Claims 2 and 12-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Comment Re Page 1

Applicant is requested to update the status of the parent application mentioned at the beginning of page 1 (paragraph 0001).

Specification

5. The disclosure is objected to because of the following informalities: (1) #12 is called a "gripping member" (paragraph 0053, line 4) as well as a "starting point" (paragraph 0054, lines 6,8 & 12); and (2) "182" (paragraph 0094, line 5) should be -- 379 --.

Appropriate correction is required.

Claim Objections

6. Claim 28 is objected to because of the following informalities: it ends in a comma. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1,3,4,6,7,9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Lechene (USP 3,351,387). The patent to Lechene discloses discloses

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an elongated flexible base member (45) made of a thermoplastic material (column 2, line 20) such as polypropylene (which is the preferred material of the present application) which has a plurality of fibers (46) protruding therefrom and which is formed in a helix-like configuration (see fig 5) and wherein the helix shape defined by the flexible member receives a core member (53). Figure 5 of Lechene reasonably discloses a constant helical angle (claim 4). The coils of Lechene are spaced from each other (claim 7) and the "close fit" of claim 6 defines no more than a relative term which is also reasonably met by Lechene. As the material of Lechene is the same as applicant's preferred material, claim 11 is met by the prior art.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lechene (USP 3,351,387) in view of Hunt (USP 3,343,884). The patent to Lechene discloses a cleaning device comprising a base member (44) with a plurality of fibers (46) extending therefrom wherein the base member is made of a thermoplastic polypropylene (column 2, lines 19-21) and wherein the base member is formed into a helical configuration (see fig 5) which appears to have a constant "helical angle". The patent to Lechene discloses the invention substantially as claimed with the exception of the varying helical angle. The patent to Hunt discloses a similar brush wherein the pitch

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of the spiral may be varied (see column 1, lines 52-55). It would have been obvious to one of ordinary skill to have modified the device of Lechene as such to produce the desired bristle density.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lechene (USP 3,351,387) in view of Stebler (USP 1,454,191). The patent to Lechene discloses the invention substantially as claimed with the exception of the fibers having a varying length. The patent to Stebler discloses that it is well known per se to provide varied-length fibers in a rotary cylindrical brush. It would have been obvious to one of ordinary skill to have modified the device of Lechene as such so as to produce a varied brushing effect as the brush is rotated.

12. Claims 27, and 29-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lechene (USP 3,351,387). The patent to Lechene discloses the structure of claim 1 in addition to a non-stretchable and non-compressible core (53) inserted through a portion of the opening formed by the elongated base member and connected thereto at one or more points along the length of the base member (claim 27). Lechene discloses that the core member is made of wood or other material (column 5, lines 30). Lechene discloses the invention substantially as claimed with the exception of the core being plastic. One of ordinary skill to would deem it obvious to use any number of common materials for the core (53), in particular plastic in that it would be cheaper than wood. The flexible member of Lechene is connected to the core member substantially continuously (claim 29). The portion of the core (53) of Lechene which extends beyond the ends of the flexible member read (at least structurally) on the first and second "core

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extensions" (claims 30-31). The remaining claims (32-38) recite either functional or relative language which fails to structurally define over Lechene.

Allowable Subject Matter

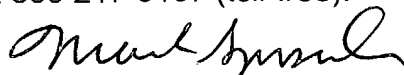
13: Claims 25,26 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK SPISICH
PRIMARY EXAMINER
GROUP 9400

~~Mark Spisich~~

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